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FROM USMISSION UNESCO PARIS

E.O. 2958: N/A

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SUBJECT: UNESCO: GAPS IN UNESCO DATA BASE OF CULTURAL HERITAGE NATIONAL LAWS MAY IMPEDE RETURN OF CULTURAL ARTIFACTS

Ref: Paris 4621 (Notal)

1. Summary. As reported ref, quick resolution of questions about the law of the country of origin ("source country") of a particular artifact can be of critical importance in legal processes concerning the recovery and return of the item. Easy reference to these laws would also encourage self-policing by museums, dealers and collectors. UNESCO's Data Base of Cultural Heritage National Laws is designed to meet these needs, but countries in all regions have not yet replied to UNESCO's requests for submission of national laws. The U.S. supports UNESCO's request and is in the process of providing the requested information. End summary.

2. Potential purchasers are required to exercise "due diligence" to determine an object's legal status, which requires access to the cultural heritage laws of the source country. In addition, legal questions are often key in the recovery and return of looted or stolen cultural artifacts to the country of origin. For example:

--Border authorities, confronted by an item that raises questions, need a quick and reliable reference tool to determine whether that item requires an export permit.
--Court proceedings can turn on a determination of whether the source country law defines illegally excavated items as
Currently, however, it can be difficult to ascertain the law.

3. The UNESCO cultural heritage national law database, maintained by UNESCO's culture section, is intended to fill this need. The UNESCO national laws data base can be found at: http://portal.unesco.org/culture/en/ev.php-URL_ID=23464&URL_DO=DO_TOPIC&URL_SECTION=201.html

4. The USG will support the database through a Department of State ECA-administered grant that will finance the translation into English of laws concerning moveable cultural artifacts. (Note. ECA is acting under a Congressional directive in the Senate Report/FY05 Omnibus Appropriations Legislation to "Initiate an international database of the laws of other nations that deal with cultural antiquities." End note.)

5. UNESCO has asked each Member State to provide the below information for the data base:

--The relevant legislation in an electronic format, compatible with a search feature. (Scanned documents, in ADOBE format, are not readily usable.)
--Any updates to the legislation.
--An official translation of the legislation into one of UNESCO's six official languages, preferably English or French.
--Copies of the format of any import and export certificates for cultural property.
--Contact information, regularly updated, for the authorities responsible for administering the law
--Explicit permission for UNESCO to include the material in its database.

6. The State Department's ECA office is in the process of submitting U.S. cultural heritage legislation information. Many of UNESCO's 191 member countries have not yet responded, however, to repeated requests for submission of information in electronic format. (See listing of countries whose law is included in the database in paragraph 9.)

7. In a 12 July conversation, UNESCO official Rochelle Roca-Hachem, the AmCit UNESCO employee with working level responsibility for maintaining the database, said that UNESCO would welcome any information, as long as it was in readily usable electronic format. Scanned documents were not usable, she said. Partial submissions and unofficial English translations are useful.

8. Roca-Hachem noted that virtually no African countries had responded to the DG's original request for information. She reported that she had unearthed a scholar's compilation on CD Rom of African legislation on smuggling of cultural artifacts and had written to all countries whose law was

included asking if the law was current. To date, she has received affirmative responses from only three -- Kenya, Zambia and Uganda - and will post their laws on the database by the end of July. (Note. The UNESCO database currently has a link to the laws compiled by the scholar, but it notes that the compilation is unofficial. End note.)

9. The countries whose law is listed on the database thus far are:

Europe:

Albania, Belarus, Bosnia and Herzegovina, Canada, France, Greece, Ireland, Italy, Lithuania, Monaco, Montenegro, Sweden

Latin America and Caribbean:

Cuba, Ecuador, Mexico, Venezuela

Arab States:

Jordan, Kuwait, Saudi Arabia, Syria

Asia and Pacific:

Australia, India Philippines, South Korea

10. Comment. The USG-financed, ECA-administered support for the UNESCO Cultural Heritage National Laws Database showcases the possibilities for constructive UNESCO/USG cooperation in cultural preservation matters. End comment.

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